

Bainbridge Township, Ohio  
Board of Zoning Appeals  
March 17, 2011

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis and Mr. Mark Murphy. Mr. Mark Olivier was absent.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals. He then explained the hearing process and swore in all persons who intended to testify.

Application 2011-3 by Bainbridge Shopping Center II, LLC for property at 7205 Aurora Road - Continuance

The applicant is requesting a modification to a conditional use permit. The property is located in a CR District.

The zoning inspector's letter dated March 17, 2011 was read.

Mr. Matt McGill was present to represent this application.

Mr. Horn said that the board received a letter from the Western Reserve Land Conservancy that it had requested in terms of what their position was.

Mr. Lamanna said they basically said that they don't have any objection to what you (Mr. McGill) are doing.

Mr. McGill testified by saying correct as long as we stay outside the buffer zone.

Mr. Lamanna asked if there are any other open items on this application.

The board reviewed the application.

Mr. Horn asked if the total lot coverage will be 45.88%.

Mr. McGill said 45.88% and that includes the additional land that sits between Thomasville Furniture and TNT if that was developed and when this is developed it still would only be at 45.88%.

Mr. Horn said it would be below what was granted.

Mr. McGill said correct.

Mr. Murphy asked if this is the last out-parcel or are there other places to put it.

Mr. McGill said there is nowhere else that would be sizable enough to support any type of building at all and just a review of the site plan, it is not feasible.

Mr. Murphy said the cut-out is to be a regular shape it is actually taking advantage of keeping some of the wetlands intact in the back.

Mr. McGill said correct and most of it will still be intact.

Mr. Murphy asked if there is anywhere else on the property to put this tenant, not that sooner or later somebody can't go there, it is not an over-build issue it is basically a modification to a conditional use and asked what the modification will be.

Mr. Horn asked if that is a modification to the original agreement.

Mr. McGill said it is a site plan change.

Mr. Shane Wrench, Zoning Inspector testified that it is a change to the originally approved site plan.

Mr. Murphy said he thinks the only concern the board had was the Western Reserve Land Conservancy.

Mr. Lamanna said right, that was the only issue. He said this property was previously subdivided into a number of separate parcels and part of this is changing those parcels.

Mr. McGill said they have no intention of subdividing those parcels further than what was approved in January.

Mr. Lewis said this is a swap developing green space here (he referred to a site plan) in lieu of at the rear of the property.

Mr. McGill said correct.

Mr. Lewis said it doesn't affect lot coverage, all the ratios and the limits will stay intact and at the beginning this one was exempt. He asked if this is to accommodate a tenant.

Mr. McGill said correct.

Mr. Lewis asked if the board has not seen a site plan for this.

Mr. McGill said correct, there hasn't been a specific prototype done for the buildings yet.

Mr. Lamanna said this is a parcel now dedicated as 8D and asked if that is correct and asked what is currently on 8D if anything.

Mr. McGill said he didn't bring the plat with him. He said currently this parcel will stay a part of what ends up with Babies R Us, Five Below, Big Lots, Marshalls that entire area.

Mr. Lamanna said the question is will this new development be over 40% on this particular lot.

Mr. McGill replied no and that lot includes everything behind Kohl's and it will still be significantly below. He said the lot currently is around 27% lot coverage.

Mr. Lamanna said so it won't go over and asked Mr. McGill if any other variances will be required regarding side yards due to the way this lot is configured and if he will have to come back.

Mr. McGill said he doesn't believe he will need any further variances because the building will be built about in the middle but the exact site plan has not been determined.

Mr. Lamanna said the board can address it now.

Mr. McGill said there is nothing specific he can give the board now to address it at this point.

Since there was no further testimony, this application was concluded.

Motion BZA 2011-3 – 7205 Aurora Road (Bainbridge Shopping Center II, LLC)

Mr. Lamanna made a motion to grant the applicant a modification to the conditional use permit with respect to the development of the sub-parcel known as 8D wherein previously within such sub-parcel there was an area adjacent to a conservation easement that was not shown as developed and the applicant wishes to develop a portion of that area generally in accordance with plans the applicant has submitted with this request and that the conditional use permit be so modified.

1. The applicant has not presented a specific development plan.
2. The final development plan is substantially similar to that that has been presented and the applicant requires no additional variances.
3. The applicant will not be required to return for that approval.
4. If there are any significant differences then the applicant will have to present that final development plan for approval otherwise if not the approval of the Zoning Inspector will suffice.

Motion BZA 2011-3 – 7205 Aurora Road (Bainbridge Shopping Center II, LLC) - Continued

Based on the following findings of fact:

1. The reason for granting the modification to the conditional use permit is it is consistent with the development of the area.
2. This particular area has a defined conservation easement on it.
3. The holder of that easement has indicated that as long as the buffers have been shown on the applicant's submittal and maintained around that conservation easement, they have no objection and they do not believe that the conservation area will be adversely affected by that development.

Mr. Lewis seconded the motion.

Vote: Mr. Horn, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2011-4 by Paul Willson for property at 18760 Snyder Road - Continuance

The applicant is requesting area variances for the purpose of a lot split. The property is located in a R-5A District.

Mr. Lamanna noted that this application is a continuance.

The zoning inspector's letter dated March 17, 2011 was read.

Mr. Rudy Schwartz of Schwartz Land Surveying was present to represent this application.

Mr. Schwartz testified that Mr. Willson who is out of state in Oregon asked him to do the survey work on his property and create a lot split that he has discussed with the board at a previous meeting. He said he brought along some bigger prints that will make it easier for the board to see. He submitted the prints to the board and said there is also a copy of the Geauga County GIS aerial photo that he drew the property lines on.

Mr. Horn asked if this lot split will result in any variances required by the zoning.

Mr. Schwartz said yes, he is assuming there will be multiple variances.

Mr. Murphy said yes from minimum side yards and minimum rear yards.

Mr. Schwartz said all of the houses are pre-existing.

The board reviewed the application and site plans.

Mr. Shane Wrench, Zoning Inspector explained the setbacks.

Mr. Schwartz said sometime in 2006 when they put in the septic system the way that they took it from their pump all the way through the back to this field (he referred to a site plan) which was verified and came from the Health Department. He explained how the lines were run and said when he prepares the metes and bounds he will put a description in the easement for that.

Mr. Lamanna said the front yard setback on the north lot is okay.

Mr. Horn asked about the area for the north lot.

Mr. Schwartz said it is 1.4449 and the south lot is 3.5566.

Mr. Lamanna said the existing house front yard is 84.8', the side is 30' and the rear is okay. He said there is a lot width issue but the frontage is alright. He asked what the lot width is on these lots.

Mr. Schwartz said the lot width is at the setback line.

Mr. Wrench explained that the lot width is the straight line horizontal distance between the side lot lines and the front setback line.

The board reviewed the setbacks for the lots.

Mr. Lamanna said he just wants to make sure everything is covered such as setbacks, lot widths etc. so the applicant does not have to come back. He reviewed the property lines, proposed setbacks and lot coverage.

Mr. Horn asked if the driveway is paved.

Mr. Schwartz said it is gravel.

Mr. Murphy asked if the engineer's office has any issues about the easement for the sanitary sewer.

Mr. Schwartz said they did send it over to Mr. Dave Dietrich, Geauga County Planning Director for a preliminary approval and he was the one who pointed that out to us and that it would need some sort of an easement for that force main.

Mr. Murphy said the easement then becomes a permanent part of the north parcel, it is still their land.

Mr. Schwartz said correct.

Mr. Lamanna explained the proposed easement.

Mr. Murphy said hopefully the owners of the north parcel understand that at any day and anytime somebody could be back-hoeing back and forth across their road.

Mr. Schwartz said that is why they have title searches.

Mr. Murphy asked if this changes anything with the Rosenbergers and if they have seen the submitted site plans.

Mrs. Cindy Rosenberger of 6232 N. Canterbury Road, Parma, Ohio asked Mr. Schwartz if he is representing the property owner.

Mr. Schwartz replied yes.

Mrs. Rosenberger asked if that was legal.

Mr. Schwartz said he is the land surveyor.

Mr. Lamanna said this application has been heard one time already so the only thing the board was looking for was a specific delineation where the property lines would be so the board can act on it. He said all of the other information with respect to this application was heard at the prior meeting.

Mr. Horn said the board indicated to him because he came here to the last meeting from Oregon that he wouldn't have to come back to this hearing.

Mr. Lamanna said the only thing left on this application was defining exactly where the lines are because the board couldn't act on it without surveyed property lines because the board wouldn't be able to determine what variances were necessary and before this can be done, the planning department requires that the lots have variances that match whatever is required, they will not allow new lots unless there is a variance.

Mr. Ray Rosenberger of 6232 N. Canterbury Road, Parma, Ohio testified by saying once again he is slightly confused because according to Chapter 117 any party may call on any party as if on cross-examination but yet the applicant isn't here so who will answer the questions that interested parties will have as if the applicant were here.

Mr. Lamanna said you (Mr. Rosenberger) had the opportunity to quiz the applicant and the only thing before the board is the survey and we have the surveyor here.

Mr. Rosenberger said so you are saying that the public hearing isn't open again.

Mr. Lamanna said the public hearing is not re-opened again with regard to what happened last time, we are here to supplement the record with the additional information that is here.

Mr. Rosenberger said he wasn't aware of that, he thought it was tabled.

Mr. Lamanna said the board doesn't re-hear that which was already completed, it was tabled for the purposes of having a precise plat brought before us and everyone had the opportunity to deal with all of the other issues with the property and frankly what was presented here is not that different than what was shown at the last meeting so if there is a question or comment with respect to this specific drawing that is different than what we went over last time.

Mr. Rosenberger said he does or he thinks he does.

Mr. Lamanna said he is not trying to prevent you (Mr. Rosenberger) from making a comment, he is just saying that all of the other issues the applicant needs to be here for, he was here and everybody had the opportunity to ask some questions about the property so the only thing that is really before us now is what the surveyor has done. He said if anybody wants to comment on what the surveyor has done that is fine.

Mr. Rosenberger said the board should tell him if this is not relevant but he was going to ask the surveyor or ask the board once he knew the details of it and of course at the last meeting he didn't know what variances are being caused by the one-bedroom house and he had a suggestion to make with regards to that one-bedroom house.

Mr. Lamanna asked if that is the one closest to the south.

Mr. Rosenberger said it is 3-1/2 acres and it is in the front and it is the south house.

Mr. Horn asked if it is the one closest to his property.

Mr. Rosenberger said yes and he was going to ask and the board will tell him if this is not pertinent. He asked what would be the impact on the variances if the little house wasn't there and the reason is, he has a suggestion in that what if the township grants the lot split and the applicant in turn donates the house to the Bainbridge Historical Society and here is his thinking. He said the house is 110 years old and somewhat of a historical piece and represents an era that we never got to see. He said Mr. Willson's grandfather was somewhat of a pioneer and he thinks it is important to preserve the actions, thoughts, words and some of the material things that the pioneers dealt with and as such Bainbridge Township and the Historical Society are trying to create an identity for the township and something that is 110 years old is part of that identity and if it all fits and all of the parties agree to it, it could be a tax advantage, the house would be moved to the center that they are trying to create with this identity.

Mr. Rosenberger continued by saying there were other questions but only the applicant could answer them and he did not realize that they were not going to be permitted once the public hearing was re-opened and details known so he would like the board to consider that and if the board should communicate that to Mr. Willson, it means, one, that you would reduce the houses from three to two or an accessory building that would be a livable facility, you have reduced it, you reduced the demand on the property and you reduced the non-conformity and at the same time he thinks it would be a very valuable contribution to the township.

Mr. Lamanna said he thinks you (Mr. Rosenberger) are certainly free to pursue that with him (Mr. Willson) but he does not think the board can address that here.

Mr. Rosenberger said no, he didn't but the board could.

Mr. Lamanna said certainly Mr. Willson might be amenable to that if he wants to spend the money to remove it unless somebody would remove it for him.

Mr. Rosenberger said if he could close by saying that he comes from a community now that brick by brick and house by house they are removing all of the historic aspects of the city and now the libraries are going and he is somebody who is attached to those kinds of things, he enjoys them and he thinks the community needs something so that is why he offered it.

Mr. Lamanna thanked Mr. Rosenberger for his interest.

Mrs. Rosenberger said she had a question about the accessory building and if that is written into whatever the board is doing that the small house will now be an accessory building.

Mr. Lamanna said right it will just be an accessory building.

Mrs. Rosenberger asked how it will get monitored.

Mr. Lamanna said if they don't use it that way, you can call the zoning inspector and he will come out and make sure that it is just like every other issue that may come up.

Mr. Murphy said it doesn't mean it is not still a bedroom.

Mr. Lamanna said it has got to be used as a lawful accessory structure.



Mr. Murphy asked Mr. Schwartz if he in fact found the big house, the north lot, the 1-1/2 acres an existing septic system and the reason he asks is on the original write-up from the application, you spoke to Mr. Bill Wendell and Mr. Mike Tusick from the Health Department regarding the septic set-up on this property and were told that the property owner received a variance for the sharing of the septic and if the lots were split with different owners there would be a need for an easement put in place. He said that scares him, this is what he would expect from 2007 or 2005 from Geauga County for a new septic field for this, the septic lines cross in fact and there is a septic line here and here (he referred to the site plan) and this doesn't seem to be anywhere big enough for the existing house and garage on the north lot.

Mr. Schwartz said the Health Department indicated to him that they had no idea where the system was for this particular house, they thought it was in this general area (he referred to a site plan) and they did not have anything on file as to the age of the house.

Mr. Murphy asked if this is as old as these houses.

Mr. Schwartz said he does not know the age of when they were constructed but it appeared that it went from a tank to a tank to a tank and dispersed into this area here (he referred to a site plan) so there could be some leaching fields somewhere in this area but without excavating it up and looking for it he does not know. He said the owner of this property, Mr. Willson, indicated to him that he thought it was all in this area but chances are if he ever decides to sell this property, there will be a point of sale inspection and they will probably have to replace the septic with a probably or possibly mound or drip system but whether it is in the back or front, he does not know.

Mr. Murphy said you didn't see a septic or leach field or anything like that and he doesn't remember seeing this statement last time.

Mr. Wrench said he believes that Mr. Willson mentioned the variance he got from the Health Department.

Mr. Schwartz said the variance was for that system for the two structures to the south.

Mr. Murphy said now that he is seeing it written the way it is written, there is a sharing of septic, he received a variance for the sharing of the septic.

Mr. Schwartz said here is something from the Health Department that would tell you about the one-bedroom and the two-bedroom and if he is going to try to split that, then they would have to make other arrangements.

Mr. Lamanna said he thinks it was the two smaller houses that were sharing.

Mr. Murphy asked if there is a permit for the layout for the septic system for this house.

Mr. Schwartz said he doesn't think it exists, he doesn't think there is anything at the Health Department on that.

Mr. Wrench said one other thing is he spoke to Mr. Dave Dietrich about the plan that Mr. Schwartz submitted and he made suggestions for modifications and he called back and said Mr. Schwartz had addressed his concerns.

Mr. Lamanna asked that the drawing submitted tonight be added to the record and to the application.

Since there was no further testimony, this application was concluded.

#### Motion BZA 2011-4 – 18760 Snyder Road

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of subdividing an existing lot with three dwellings on it into two lots with one dwelling each upon it. Each of these lots will have frontage on Snyder Road and the board will refer to the lots by their relative position. One lot being the north lot and the other lot will be referred to as the south lot.

#### North Lot

1. A variance from the minimum lot width of 250' to 135' plus or minus.
2. A variance from the minimum required side yard setback of 50' to 27.7' to the north.
3. A variance from the minimum required side yard setback of 50' to 41.6' to the south being measured from an existing garage.
4. A variance from the minimum required rear yard setback of 90' to 75.9'.
5. A variance from the minimum required lot size of 5 acres to 1.4449 acres, based on the measurement to the centerline of the road.

#### South Lot

1. A variance to the minimum required lot width of 250' to 190' plus or minus.
2. A variance from the minimum required front yard setback of 100' to 84.8'.
3. A variance from the minimum required side yard setback of 50' to 30' on the north side yard.
4. A variance from the minimum required side yard setback of 50' to 27.3' on the south side yard.
5. A variance from the minimum required lot size of 5 acres to 3.5566 acres, based on the measurement to the centerline of the road.

Motion BZA 2011-4 – 18760 Snyder Road - Continued

The following conditions are applicable to the variances granted with respect to these lots.

1. With respect to the north lot the applicant shall provide an easement from the north lot to the south lot to provide for existing septic lines that traverse the north lot from the structures on the south lot to the leach fields on the south lot that are behind a portion of the north lot.
2. A condition upon the south lot is the structure that is being used or has been used as a house that is located on the south side of the south lot approximately 27' from the side lot line, will in the future, be solely used as an accessory structure to the other existing house on that lot which is located on the more northerly side of that lot.

Based on the following findings of fact:

1. A practical difficulty exists.
2. This has been a long-standing non-conforming use with three separate dwellings on one lot.
3. This will reduce the non-conformity and create two separate lots with one identified dwelling on those lots.
4. It has been divided in a way to minimize the reasonable extent practical for the variances that will be created or required.
5. None of these variances will adversely affect the character of the neighborhood or the adjacent property owners.

Mr. Lewis seconded the motion.

Vote: Mr. Horn, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2011-6 by A. & E. Real Estate LLC for property at 17800 Chillicothe Road - Continuance

The applicant is requesting area variances for the purpose of constructing a stand-alone building in a strip shopping center for animal daycare. The property is located in a CB District.

Mr. Lamanna noted that this application is a continuance.

The zoning inspector's letter dated March 17, 2011 was read.

Mr. Ted Rusnak and Mr. Larry Shibley were present to represent this application.

Mr. Rusnak testified that the request from last time was an 8,000 sq. ft. building and approximately an increase of 9% over the 40% lot coverage. He said the potential tenant has agreed that she can work with a building of the size indicated on the drawing and the submission which is 6,500 sq. ft. rather than 8,000 sq. ft. He said he went there and counted parking spaces and found they had 24 extra, the doggy daycare probably needs seven which is what they show and he adjusted all of the numbers accordingly.

Mr. Shibley testified that they came up with 43%.

Mr. Rusnak said they have 43% lot coverage so they are asking for a 3% variance from the township's standards.

Mr. Horn said it was reduced from 8,000 sq. ft. to 6,500 sq. ft. and there are extra parking spaces and you need seven so you got rid of some.

Mr. Rusnak explained that they reduced all of the parking from the original submission down to seven and they still have for the entire site including this building, they had an extra five.

Mr. Shibley said there is currently a dumpster there too which they will be able to screen.

Mr. Lewis asked if they are going to landscape this.

Mr. Shibley said they are going to repair that so it is no longer parking or dumpster storage.

Mr. Lewis asked if it will be seeded.

Mr. Shibley said it is sort of field looking but they do keep it trimmed and they will relocate the larger dumpster.

Mr. Lewis asked if this building will have more than one entrance.

Mr. Shibley said by code it will have one and a service entrance or something in the rear.

Mr. Rusnak said there is a requirement for a second means of egress because of the depth and the size.

Mr. Lewis referred to the refuse and said there is a front door to the building and there may be a man-door somewhere else so what he is curious about is where is the waste disposal truck going to access the waste from this building.

Mr. Shibley said the way they do now. He said there are two or three dumpsters back there already which show on Bainbridge Road but now they will be screened and they will be in a confined area back there. He explained that there is a common alley and there is a corner that would be an easy way to handle it which is not against the building.

Mr. Lewis said he does not see a walkway or a drive-path or anything so when Ohio puts two feet of snow on the ground, are these folks going to be coming out the back door of this building with their animals.

Mr. Shibley said it is not that finely drawn but there will be some sort of a walkway or maybe the door would be right here or in that corner (he referred to the site plan). He said they didn't take it that far yet.

Mr. Rusnak said in their discussions it is a matter of, in all likelihood, two man-doors to the rear, one which would be used most frequently because it is always possible that in ten years from now that there are two tenants in here and obviously each would have a separate entrance.

Mr. Lewis asked what was the refuse removal understanding, the frequency, where this was going and if this is going into just a regular everyday dumpster where we have other products.

Mr. Shibley said it will be a designated dumpster only.

Ms. Ryan testified that there is really not a lot of waste.

Mr. Shibley said there are special bags.

Ms. Ryan said there are special bags and she only uses one bag per day and the rest are paper towels but it is really not a lot of waste.

Mr. Murphy asked Ms. Ryan how many dogs she can handle.

Ms. Ryan said out of 6,500 sq. ft. she would probably have 44 cabins which would be 44 overnight dogs.

Mr. Lewis asked with this type of a thing with animal waste, is there a state requirement on the frequency that your dumpster needs to be emptied.

Ms. Ryan said it is only once a week.

Mr. Shibley said the sealing and packaging of it is key so there is no odor.

Mr. Lewis said you are adjacent to a restaurant with a patio.

Mr. Shibley said there will be some significant distance and he is just as concerned about that and that is one of the reasons he doesn't want any dumpsters out there.

Mr. Rusnak said there really isn't anything particular to the building code that would dictate a particular way of cleaning up, a child-care center has far more stringent requirements but as far as doggy daycares a lot of it comes down to the owner of the business and he has been through their facility and talked to some of their franchise people and they are very stringent on cleanliness.

Mr. Shibley said their lease will contain that as well.

Mr. Lewis said he sees there is a new rendering.

Mr. Shibley said that is not actually the current one.

Mr. Lewis said this is a whole lot better than the processed metal building.

Mr. Shibley said he has not had the chance to review this but these are the changes he wants to make.

Mr. Lewis asked if they are building a block building with a brick façade.

Mr. Shibley said yes and the brick will come back a certain distance here enough to have a window there and then this will be hedged which is not very tall on the drawing but there will be a significant hedge so that you will imagine that the brick continues and the block paint will match the brick color.

Mr. Murphy asked if the elevation will be facing Bainbridge-Solon Road.

Mr. Rusnak said it will be facing the Police Department.

Mr. Shibley said there will be a significant hedge and trees there so it will be a better exposure than what you get from the phone company building.

Mr. Rusnak asked the board if they are familiar with the plaza where Nicky & Smitty's restaurant is, they did something similar there.

Mr. Lamanna asked if there will be signage on the Bainbridge Road side.

Mr. Shibley said they were approved but it never happened, but they would like to put a sign identifying the plaza that matches sort of the police department sign, not matches but ties into that sign and they would probably add this tenant and maybe one other key tenant on it.

Mr. Lamanna said so we already addressed that.

Mr. Shibley said right. He said they are putting together submission for this sign too to do a masonry stone enclosure of it so the sign stays the same but it will be wrapped with stone. He said if you notice here also, they would like to add an island in the driveway and that cuts down a little bit on the paved space as well.

Mr. Horn said so in snowy days when they are coming south on Chillicothe they can slide right into it.

Mr. Shibley said there will be a curb.

Mr. Murphy said for a safety advantage there will be more paving to the front too and asked is that correct, you will widen that front driveway.

Mr. Shibley explained that they don't have to do it but it is an enhancement and they are trying to dress up that entrance.

Mr. Murphy said the idea he thought was dressing up the view from Bainbridge Road but they have made a nice view from the police station and nothing to Bainbridge Road that actually improves the look of this whole thing.

Mr. Shibley said if you look now you have all the dumpsters but you won't have that here.

Mr. Murphy said he understands but there will be 100' of brick wall with one window up in the front. He said last month the view was on Bainbridge Road.

Mr. Rusnak said it is not going to be concrete block all the way, he is assuming they will be going back at least 25', the brick wraps around that side and one of the reasons he mentioned the other plaza was they did the same thing there and the setback he believes is 90'.

Mr. Lewis said and then another 40' until we hit block.

Mr. Rusnak said we are well within any setback requirements.

Mr. Horn said five parking spaces were removed on the left side.

Mr. Rusnak said yes.

Mr. Horn said he thinks on the revised drawing there were some spaces there before.

Mr. Shibley said they removed those too.

Mr. Rusnak said all of those were removed and the reserve parking was removed.

Mr. Horn asked if they looked at removing any of the spaces here (he referred to the site plan) to try to get to 40%.

Mr. Rusnak said no and once the snow was far enough gone, he went out there and walked down the parking lot and counted them and they ended up with 171 spaces.

Mr. Lamanna said 147 are required.

Mr. Rusnak said they held the same standard for the center as this building so they are actually pretty close.

Mr. Horn said if some of the existing parking spaces are removed on the south side of the parking lot it might get closer to 40%.

Mr. Rusnak said that is not impossible to do and the five that were removed here (he referred to a site plan) gave us a little wiggle room and allowed them to make the changes in the front which is 7.5 and is approximately 100' deep and the 900 sq. ft. here balanced against that so they took these out and came up with a nice number.

Mr. Shibley said the other thing to keep in mind is they do a lot of community service with ride-share type of parking that is done on a daily basis because of their proximity to the freeway and that is typically along the side here (he referred to a site plan) but sometimes they just park anywhere.

Mr. Murphy said he would like to see a landscaping plan because a little topsoil and a little grass seed is not really a landscaping plan. He said you are still asking for a variance but he has an issue with a 100' side of block building with a real nice view toward the police station and it is okay that they get that and the people coming eastbound may get a view of that but the idea was besides hiding the back of this he thought there was an attempt to dress it up and dress up the backyard. He said to say you are going to landscape something that is now a gravel drive, how about a landscape plan and to see drawings. He said we have had landscaped islands before that is basically a piece of curb with a little bit of grass in the middle with a bunch of dead flowers. He said as part of this he thinks the board needs a little bit more with the parking spaces too and they are adding a little more asphalt.

Mr. Shibley said from their last proposal they also took out from here too (he referred to a site plan).

Mr. Murphy said he understands that, which is nice but there is nothing saying what that is going to be and then a big long block of building. He asked if there is a possibility of turning and putting that facing to the Bainbridge Road street side or if that is out of the question.



Mr. Shibley said they could compromise and add a couple of windows.

Mr. Rusnak said it could be enhanced with some windows.

Mr. Shibley said it will have a significant height hedge that starts a few feet back after the brick portion so it looks like the brick continues and the hedge is maintained because it is a long span.

The board discussed the proposed landscaping.

Mr. Shibley said they plan to put in trees.

Mr. Lewis asked how tall the building is.

Mr. Rusnak said probably at the front 15' and they haven't gone into the specifics of the building but at the rear 14' at the most.

Mr. Shibley said it will be a similar height to the existing building, the back portion because the front portion is two-story.

Mr. Rusnak said we definitely don't want this building to be overwhelming.

Mr. Lewis asked if they are planning to sprinkler this building.

Mr. Rusnak said at this point in time no, they haven't really discussed the function of the building.

Mr. Shibley said whatever is required.

Mr. Rusnak said probably the code will dictate a specific minimum size and he thinks it is 12,000 sq ft. in a business that would require that and there is also some requirements now for local area sprinklers if they are becoming inexpensive enough that they can be installed in a boiler room. He said they are talking about rooftop units so he doesn't think there will be any in this building and perhaps a new tenant would like an enhanced fire detection system but that doesn't answer the question.

Mr. Horn said on the drawings it indicates that there are five parking spaces that exceed the number required with the new building and asked if it is that way before you removed the other five or after you removed the other five.

Mr. Rusnak said they had extra spaces and Mr. Shibley wanted to enhance that front entrance.

Mr. Murphy said he would like to see a landscaping plan and read from the application that states "The existing center will continue to function without the variance. The proposed building and grounds will enhance the appearance and success of the center." He said he would like to see what the landscape plan is and would like to see something concrete rather than just a promise of shrubs for the 3% and asked if that is asking too much.

Mr. Shibley said no and asked if they are able to do it conditioned on approval of the landscape plan because they will propose a plan and if it is not right they will make it whatever the board wants it to be.

Mr. Lamanna said yes it could be submitted to the zoning inspector for his review. He said the board can put general parameters on it such as screening of the building and the area reclaimed into a natural area.

Mr. Shibley said he wants the same thing.

Mr. Murphy said the board appreciates the idea that it will look better but he is still apprehensive about this whole side of the building, 100' of block with one window but it is a great front facing west.

Mr. Rusnak said he is sure they can enhance that to the point that it looks as good as the side but they will use more foliage on that side obviously.

Mr. Horn said part of the reason why they did that is to reduce the lot coverage which was the board's concern.

Mr. Lamanna said they can add some natural features to that side of the building.

Mr. Shibley said one of the things they talked about was a faux look where it looks like there is an opening there but it is bricked up and they are going to do a lot of screening anyway so it is not a problem to put some openings there.

Mr. Lamanna asked that the new drawings, dated January 20, 2011 submitted by the applicant, be added to the record for this application.

Since there was no further testimony, this application was concluded.

Motion BZA 2011-6 – 17800 Chillicothe Road

Mr. Lamanna made a motion to grant the applicant a conditional use permit as a strip shopping center to this existing shopping center together with the new proposed single story building as shown on the applicant's plan.

1. All of the standard conditions will apply to this conditional use plus any previously existing conditions that have been applied to this center or any of the specific spaces or uses in the center will also continue to apply and will not be outdated by this action.
2. The conditional use will cover all of the existing uses in the center and the new proposed building operating as a doggy daycare center.
3. The applicant has also requested a variance of 3% lot coverage from 40% to 43% and the board will also grant that variance based upon modifications to the existing property to eliminate certain parking spaces and modify the front and rear entrances and with parking as shown on the plan for the new building. This will yield approximately 173 parking spaces which is the amount of spaces required for the center.

Based on the following findings of fact:

1. The reason for granting these variances is to provide an upgrade to this existing property and to allow for the fact that because of the L-shaped nature of the property it requires additional ingress and egress driveways limiting the development for the total building development on this property.
2. It is not inconsistent with the amount of structure located on other properties in a similar district within the township's same zoning district.
3. This will also, by allowing an additional construction of a building, screen off from exterior view along Bainbridge Road what is currently an unattractive rear delivery area on this property.

The following condition is applied to the variance and to the conditional use:

1. On the Bainbridge Road side, the area between the new building and Bainbridge Road, the applicant will within four weeks of today submit to the zoning inspector a landscape plan for the reclamation of that area into a landscaped area together with trees and/or shrubs including some deciduous and evergreen trees to screen that side of the building.
2. The applicant will also add additional architectural features to the side of the building facing Bainbridge Road to make it more attractive as effectively a frontage of that side upon Bainbridge Road.

Mr. Lewis seconded the motion.

Vote: Mr. Horn, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2011-7 by Geauga Lake Flea Market LLP for property at PP# 02-126400; PP# 02-126500; and PP# 02-126600 - Parking Lot of Former Geauga Lake Amusement Park - Continuance

The applicant is requesting a use variance for the purpose of holding seasonal outdoor sales of merchandise, craft shows and related events from April through October annually. The property is located in a CR District.

The zoning inspector's letter dated February 17, 2011 was read.

Mr. Dennis Nevar, Mr. Kenneth Fisher and Mr. Tom Deitrick were present to represent this application.

Mr. Kenneth Fisher testified that they were here last month and made a presentation and there was a question about the granting of the use variance being limited in terms of duration and he believes that they have addressed that issue and even a Bainbridge Township case earlier clearly states in their opinion that this board has the jurisdiction to grant the use variance with by agreement a duration of a number of years so it would not as would typically happen with a use variance that would run with the land and so they are requesting approval, they have satisfied the conditions per the zoning resolution for the granting of the use variance. He said it would provide an opportunity for artisans in the community for a seasonal use of this site that everybody is well aware of is completely underutilized and unoccupied since Geauga Lake has closed. He said they addressed traffic, they have addressed safety and he also wants to point out that the applicant is in communication with Kenston Schools to provide an opportunity for students to participate, it is a good use and they are in agreement that there should be some limitations in terms of duration of the use variance.

Mr. Horn stated that the board received a copy of a memo and referred to page two of that and read the following "The fact that the CB Convenience Business District prohibits "outdoor sales" does not show that the intent of the Zoning Resolution is to prohibit such "outdoor sales" in all Zoning Districts. He said you are saying that it is prohibited in convenience business but that shouldn't mean that it is not prohibited in other zoning districts.

Mr. Fisher said he believes it is the way it is written.

Mr. Horn said it is limited to CB districts.

Mr. Fisher said yes and he doesn't think there is a limitation the way the zoning resolution reads and he does believe that the board believes that that is what it says and again if there is a prohibition then a prohibition has to be stated and it is not so stated so they do believe that outdoor sales are allowed.

Mr. Horn said in other districts.

Mr. Fisher said yes.

Mr. Horn said the board also wants some idea of what the hours are going to be and the specifics regarding the operation.

Mr. Fisher said they are looking at obviously daylight hours and looking at between the setup and the take-down as Thursday through Sunday every week.

Mr. Horn asked Thursday through Sunday.

Mr. Fisher said it is actually Saturday and Sunday and would be 8:00 AM to 6:00 PM. He said they wouldn't start before 8:00 in the morning and would be done by 6:00 in the evening.

Mr. Lewis asked if that is their public entrance or the entrance for exhibitors, the 8:00 in the morning.

Mr. Deitrick testified that that is when they would come in and set up.

Mr. Lewis asked if there will be no exhibitors before 8:00.

Mr. Deitrick said no exhibitors before 8:00 and the general public would be 9:00.

Mr. Horn said this property is in commercial recreation just to be correct and asked if there is anything in the zoning resolution that addresses outdoor sales in the commercial recreation district. He said the applicant cited no prohibition but asked if it is a permitted use.

Mr. Fisher said no, he does not believe that it is.

Mr. Horn said that 151.02 (b) seems that conditional uses lists those uses that are permitted and he does not think it is listed as a permitted use.

Mr. Fisher said it is a prohibited use but not in this district.

Mr. Lamanna said in this case if it is not listed here it is not permitted.

Mr. Fisher said it is not a permitted use, it is not a specifically indicated permitted use.

Mr. Lamanna said the problem he has is when you come and ask for a use variance, technically you have to demonstrate that the property is not capable of providing a reasonable return through some use that is allowed in the district. He said in this case there are a ton of uses allowed in this district.

Mr. Fisher said none of which are presently relevant, Geauga Lake is long closed.

Mr. Lamanna said yes but they could put up any kind of retail they wanted there, they could put in fast food places but because right now there happens to be a lull in the commercial real estate market.

Mr. Fisher said that is an understatement, he was the receiver and was interested in the prior application because he was the attorney many years ago about a building coverage variance on that property and of course he was coincidentally the receiver on the shops of Bainbridge that went into foreclosure, but to say there is a lull he thinks is an understatement, it is tough right now to say the least but getting back here, under 177.01 of the zoning resolution, the proposed use is not prohibited therefore he believes that the board has jurisdiction.

Mr. Lamanna said the board has jurisdiction but the question is whether or not under the standards required for a use variance there has really been a showing that would satisfy the standards for granting that variance and it is a pretty high standard to grant a use variance.

Mr. Fisher said when you look at the history, right now the property owner is Cedar Fair, there is no opportunity to re-use the property for the prior use. He said ultimately Mr. Lamanna is right it could be developed for commercial but not presently by any stretch based on present market conditions especially without anchors and who would the anchors be that aren't already there so from that standpoint they are really looking at a use that would be presently acceptable but in terms of the future development we are in agreement that the ration of this use variance should be limited. He said Cedar Fair would welcome the opportunity, he does not speak for them and does not profess to but it is no secret that they would like to sell the property and that is pretty public so they are looking and have to obviously have the consent of the property owner to operate this seasonal use which they think does provide certain benefits. He said he can address the issues for an unnecessary hardship standard if the board wants and it is basically going through the standards but he does believe that it is met, it is consistent with the public interest and it is the same thing they put in their application, making significant improvements, landscaping to the property and they do believe that there will be an economic benefit to local merchants and business visitors to the township as well, the township residents. He said it does not deviate from the purpose of 101.02, the purpose of the CR commercial recreation district. He said literal enforcement of the zoning resolution clearly precludes any present use of the property and again the uses are not specifically prohibited therefore the board does have the ability to grant the use variance.

Mr. Lamanna said he thinks the board has the authority.

Mr. Fisher said he thinks the board does.

Mr. Lamanna said he knows there are some odd things here in fact the way the property was being used before, they had outside sales, they were selling ice cream and all kinds of food and other stuff like that.

Mr. Fisher asked if he means Geauga Lake.

Mr. Lamanna said yes.

Mr. Fisher said the whole thing was outside.

Mr. Lamanna said technically it was probably ancillary.

Mr. Fisher said to the amusement purposes, there were kiosks everywhere in the park. He said his clients are business people and they believe that this will be successful and they certainly are going to comply with all of the requirements. He said they met with representatives of the fire department in the township and are basically saying give us an opportunity, they are not looking for a long window here and if it turns out that it is not what everybody hopes it is, we're done.

Mr. Lamanna said at some point in time they are going to sell the property.

Mr. Fisher said there is no question and no doubt about that, they expect that and that is why they are saying they are completely comfortable with the duration being limited to whatever the board thinks is reasonable. He said certainly at such time the property owner changes, the use variance will automatically terminate and they acknowledge that and they are looking for a period of time in the interim.

Mr. Horn said a use variance goes with the property and not the owner.

Mr. Lewis said the board is dealing with a tenant not the property owner.

Mr. Lamanna said it still goes with the property.

Mr. Fisher said right.

Mr. Lewis asked if the property owner is here.

Mr. Fisher said Cedar Fair, no.

Mr. Lewis said he doesn't have any demonstration from the property owner that they have exhausted every useful means to make this property usable and the fact is it is usable as it is, market conditions may not make it the most wonderful to re-use the property under the conditions it is currently permitted and it is Cedar Fair's choice but he has seen no demonstration from the property owner that this property is not usable in some form it is approved for and there are a lot of permitted uses.

Mr. Fisher asked which one would apply.

Mr. Lewis said he is not the property owner so he is not going to speak for Cedar Fair and added that he doesn't see Cedar Fair in the room.

Mr. Fisher said they are not here there is no doubt about that.

Mr. Horn said they did submit a letter saying they are in support of it.

Mr. Fisher said he is saying they haven't exhausted the permitted uses within the zoning district and he does not know how to answer that and if there was a way this property could be used for any purpose he thinks that that would be happening. He asked if it is not commercial what is it going to be, it certainly is not going to be residential, there is no market for that either right now, not on that scale, it is a big site. He said certainly not industrial and he is just thinking of the uses and there are only so many uses and presently he just does not think and the board knows the township well, he does not know what you can use it for that it is not being used for.

Mr. Lewis said you (Mr. Fisher) are asking the board to abandon the uses that it is designed for just because of the current economic conditions and that is the problem, it is an element that rests heavy on his shoulders as well, there is an impact to the community.

Mr. Lamanna said in all truth this is not a far leap from what was permitted, it is a tiny little step from what is currently permitted there and that is the odd thing here and this is why it is a little hard to deal with.

Mr. Fisher said he doesn't want to be argumentative here but what they are proposing is what he would almost call, yes it is a use variance but it is only for the parking area and it is going to be limited by agreement for its duration and once the property is sold and there is a developer or someone who is going to be the developer or comes forward then this use terminates and will also terminate by agreement by the number of seasons you (the board) will allow us to operate, that or we come back and it is a seasonal use as it is and for the parking area only, only on weekends. He said nobody opposed it and in fact there were two Aurora councilmen, he wasn't here but two Aurora councilmen spoke in favor of it.

Mr. Lewis said it is not in their town and they don't provide police, fire or rescue and we don't get property taxes, payroll taxes although they might sell a few more burgers over at the McDonald's across the street but you are talking about having your own vendors on your property which of course it is interesting to see how that will be perceived by our non-seasonal businesses across the street.



Mr. Murphy said the one thing that isn't prohibited is food, very specifically on Rt. 43, there are merchants that are selling food all around that area and the fact that we are going to be increasing services we are going to have rescue squads there and police that is going to be needed, there are going to be people that get sick, fall over and get hurt and all of those things that are expensive for Bainbridge Township and at this point there is nothing coming in from the influx of 1 – 7,000 people on a Saturday or Sunday. He said the one way that could pan out is the fact if you don't serve food they are going to eat at the establishments around there.

Mr. Lamanna said we would make no more money if there are 10 people at McDonald's or 150 people at McDonald's.

Mr. Murphy said there may be additional jobs for Bainbridge residents and he doesn't know if that is a big issue either on top of everything else. He asked if there are any other people here related to this application.

Mr. Deitrick said they all got relieved, he is the only one left.

Mr. Fisher said the point is and he agrees with Mr. Lamanna, the use is very close to what is permitted and if they give us an opportunity he thinks the township will be satisfied with the improvements.

Mr. Murphy said they have a recommendation from the Geauga County Prosecutor.

Mr. Horn said which is attorney-client privileged.

Mr. Fisher said they haven't seen that.

Mr. Lamanna said one of his concerns is if they (the board) go down this road they just opened up every other business but he thinks it doesn't effect the CB District because of the specific prohibition but if you take the view that this is allowed, what about everybody in the shopping center that wants to have some kind of tent sale or any of the other businesses along Rt. 43 there will want to do the same thing.

Mr. Lewis said yes.

Mr. Lamanna said that is the difficulty here, once you go down this road, it has been a long hard fought battle with people in the CB District who want to set up a tent, bring in the trailers, have the temporary sales for 25 years, we have been battling this thing so if we open it up, there is a distinction in the CR District and in fact there is a specific prohibition applied to the CB District.

Mr. Fisher said clearly there is.

Mr. Lamanna said his concern is with everybody else in that CR District and there are a lot of other businesses in there, if we allow this what reason does the board have when the next guy comes in and wants to set up three tents and cook food and sell food such as Simas or Speedway.

Mr. Fisher said this area is a very large area, it doesn't have inside sales and there are a lot of distinctions between the business and fully enclosed structures and it is very seasonal with very limited use that is being requested.

Mr. Horn said what they are speaking of here is a temporary use variance and he doesn't know if the board can give a temporary use variance because it attaches to the land and secondly in a commercial recreation district this is not a permitted use and on the application that they filed it was indicated "Seasonal outdoor sales of merchandise, craft shows and related events are not permitted or conditional uses in any Zoning District in the Township..." but he does say nor are such uses prohibited..".

Mr. Fisher said that is what you have to show that it is not permitted nor conditional.

Mr. Horn said it is specifically prohibited but it is not permitted or a conditional use so it is a legislative interpretation here.

Mr. Fisher said that is how he reads it.

Mr. Horn said he understands but it should be read this way.

Mr. Fisher said that is what it said otherwise he doesn't think you can apply it under the jurisdiction of this board and he thinks you can limit the duration by agreement.

Mr. Lamanna said the individual businesses are certainly permitted, all of the businesses at a flea market are selling something, all of which are permitted except the fact that there is a prohibition against sales from trailers or tents. He said it is kind of strange because what you are not allowing is the manner of the use not the actual use itself but there has been a historical use in that district of this kind of sales.

Mr. Horn said the sales were ancillary to the main use at Geauga Lake.

Mr. Fisher said the arcades and the prizes you could win, the ice cream dots and all kinds of things that were open. He said they are talking open air sales, they are not talking tents.

Mr. Lewis said the Flower Factory store has 20,000 sq. ft.

Mr. Fisher said he thinks that is pretty close to 80,000 sq. ft and that is most of the square footage over there, you have got some small specialty stores but that is a big box over there.

Mr. Lewis said that is a lot of parking and a lot of square footage.

Mr. Fisher said yes and it is fully enclosed.

Mr. Lewis said an all year-round business.

Mr. Fisher said a center that went into foreclosure.

Mr. Lewis said it is an available business location.

Mr. Rosenberger referred to commercial recreation and chapter 143 and 143.04 and asked if that applies.

Mr. Lamanna said it is a very interesting question actually the way this is worded as to whether or not that applies or not and the way they made the cross reference back it includes other restrictive provisions as opposed to just the part that says here are the things that are allowed in the commercial business district and it is difficult when you look at the historical use because everybody knows with Sea World and Geauga Lake there was a lot of stuff being sold not necessarily from a permanent building, it was being sold from tents and carts and it is understandable because it is ancillary to the whole thing. He said his guess is nobody ever thought that through but if you were thinking it through, if you are running an amusement park or something like that, fine, you can do this sort of thing as an ancillary part of it.

Mr. Horn said also it was done before we had zoning.

Mr. Lamanna said yes but it would make sense to allow it in that setting for that use but if somebody else is putting up a Home Depot we wouldn't expect that Home Depot to be operating any different than a Home Depot on E. Washington Street would do from the standpoint of outside sales.

Mr. Fisher said he thinks the authority is if they agree on the duration that is completely binding and referred to another Bainbridge Township case. He said they are willing to agree to all reasonable conditions including the duration.

Mr. Horn referred to a Supreme Court case about a renewal about an expiring temporary use variance and the Supreme Court said you could modify it.

Mr. Fisher said if there was a change in circumstances.

Mr. Horn said but they could change it based on a change in circumstances.

Mr. Fisher said exactly and that is why it wasn't modified, there were no changes in circumstances. He said they are willing to agree on the duration, there is not going to be any argument about that.

Mr. Lamanna said he knows there have been some conditions applied to variances where the applicant specifically agreed to the condition and they have upheld it. He said it is a little hard as a practical matter to come in and argue that they agree to this in order to get it but now they want something different, you don't have a whole lot of equity going in your favor there, the court is not going to be real sympathetic to you as a practical matter.

Mr. Fisher said even if you agree to this and give them an opportunity just for a year, it is not what they want but they would accept that.

Mr. Lamanna said there are some costs and you would want it for more than one time.

Mr. Fisher said they would like at least two seasons, enough for them to recoup their costs with the website designs and to be able to amortize the start-up costs.

Mr. Lamanna asked if there is a practical limit on how many different vendors you can have because he does not want to see this getting out of hand because it is wildly successful.

Mr. Deitrick said they are going to layout the property and create a couple of different spaces, small, medium and large, utilizing an area of parking and that is part of the development which they haven't gone that far yet until they receive some kind of approval.

Mr. Lamanna asked if it is going to be confined to the existing paved area.

Mr. Deitrick said yes, absolutely.

Mr. Lamanna asked how much of the paved area would they ever expect to be using.

Mr. Deitrick said they talked about 200 – 400 vendors and it is really market driven.

Mr. Lamanna asked if they will use 25% of it and asked if they will not be using anything that is not paved.

Mr. Fisher said they would agree to confine all of their activity to the paved area, absolutely.

Mr. Lamanna said it might make sense to limit the actual vendors to 25% of that so that we have assurances that there is adequate parking available.

Mr. Dennis Nevar testified that with 400 it is a little over 13-1/2 acres he believes so most of the activity will take place on 500 which is probably about 18 – 20 acres.

Mr. Fisher said they are estimating the size.

The board viewed the GIS aerial photo of the property.

Mr. Fisher said it is no different than what happens in Cleveland Heights at Cain Park, or the same thing over at Boston Mills, there will be a lot of artsy, crafty type of activities and that is what they envision and it is a good thing and it brings a good quality of customers.

Mr. Lamanna said you could treat this as a conditional use because it is somewhat equivalent to a strip shopping center with multiple unrelated businesses. He said if you are using the property for multiple businesses under a conditional use with a stand-alone, one or two businesses in the building is not a conditional use.

Mr. Lewis asked if that would mean Walmart could put two parking lot stand-alone entities out there as temporary structures.

Mr. Lamanna said no, if you are looking at allowing it you could also treat it as a conditional use but it is also subject to whatever condition the board would apply to it so it is not just a variance, the variance would take you into a conditional use.

Mr. Fisher said that is interesting because that is exactly what it is, it is a use variance with conditions.

Mr. Lamanna said but also technically if you granted a use variance to something that was only permitted as a conditional use then he thinks you could certainly be made subject to the conditional use requirements that are applicable to that use. He said even though it is a variance, you still have to comply with the conditional use aspects of the variance you are being granted, it doesn't then allow you to operate that free as a conditional use permit.

Mr. Horn asked what a temporary conditional use variance is.

Mr. Lamanna said it is a temporary variance for a conditional use which is also subject to whatever conditions the board applies.

Mr. Fisher said we could call it a temporary use variance, it is probably the most applicable.

Mr. Lamanna said it is a temporary use variance for a conditional use so you would still have to satisfy all of the general requirements for a conditional use plus whatever additional requirements the board would impose pursuant to the conditional use provision.

Mr. Fisher asked if they would have to go to another body.

Mr. Lamanna said no, we would do that also, there is one body. He said it gives the board greater authority to control what is happening because it is not just a variance, now you have a conditional use here, at best you have a conditional use.

Mr. Murphy asked what is the hardship when Walmart comes next week and asks for the same thing and that is the question.

Mr. Lamanna said the only distinction he can say is that this other property was historically used for this kind of thing, this kind of thing was historically going on here and the difference is you have an existing store, you have an existing structure there, this is solely a collection of temporary things that are in here for one day a week or two days a week. He said that is the one distinction, this is going to be in and out, if any of these other places are going to want to put it up, they are going to want to be doing it seven days a week. He said they are not going to have a one day or two day a week deal.

Mr. Fisher said Saturday and Sunday.

Mr. Horn said it is really stretching and curving and bending for a non-property owner.

Mr. Lamanna said he knows and the problem is there is nobody here raising any objection to this and normally if there is any issue at all there will be people hanging from the rafters.

Mr. Fisher said he thinks a lot of people in the township will come, it is interesting, it is novel and it will have a certain artistic flair to it.

Mr. Horn said he is not inclined to it and he expressed that before.

Mr. Murphy said he does not know and he guesses the essence is setting the use parameters, time limits, termination upon the transfer of ownership and the board is being asked to write this whole document about it.

Mr. Lamanna said that is the one trouble he has, this is not the best form for doing that.

Mr. Lewis said he thinks this is for lawyers to draft.

Mr. Fisher said we have got three or four of them in the room. He said they could draft an agreement and it could be conditioned upon an agreement, it is not difficult.

Mr. Lamanna asked the other board members if they would like to have a short executive meeting.

The board members were in agreement.

## Executive Session

Mr. Lamanna moved that the Bainbridge Township Board of Zoning Appeals go into executive session for the purpose of deliberating on BZA application 2011-7 and to review some advice from legal counsel.

Mr. Horn seconded the motion.

Vote: Mr. Horn, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

The board of zoning appeals recessed its regular meeting at 9:28 P.M. in order to go into executive session for the purpose of deliberating on BZA application 2011-7 and to review some advice from legal counsel.

The board of zoning appeals returned from executive session after deliberating on BZA application 2011-7 and reviewing some advice from legal counsel and reconvened its regular meeting at 9:34 P.M.

Mr. Lamanna said upon returning from executive session the board has looked at this matter and feels it is not a reflection on the applicant's application or anything else but the board just thinks this is unmanageable from the board's standpoint. He said the board also thinks in looking at it we don't feel that it met the requirements for a use variance and this is really inconsistent based on Chapter 143.04 on the outside sales, it was not what was intended here and the fact that there were outside sales at one time on this property to a limited extent but that was ancillary to the very specific and special use that this property was being put to from 100 years ago. He said a good part of it is for the board to try to control and management is going to be very difficult to do and secondly if we proceed on this then there is not really a firm basis not to be forced to entertain applications from everybody else who is in this district. He said the applicant's option is going to be to pursue this through alternate means to try to negotiate with the trustees through the court system.

Mr. Fisher asked should they file a lawsuit.

Mr. Lamanna said yes, file an appeal.

Mr. Fisher said an appeal to what 2506.01 administrative appeal through the Geauga County Common Pleas Court, is that what you are suggesting.

Mr. Lamanna said he is not suggesting, he is saying it is an option.

Mr. Fisher said he understands they have that right but by the time they do that the season is over and they were not looking to file litigation over this.

Mr. Lamanna said yes he knows.

Mr. Fisher said it is hardly that lucrative of a proposition.

Mr. Lamanna said that is the conclusion in which the board has come to on this.

Since there was no further testimony, this application was concluded.

Motion 2011-7 – Geauga Lake Flea Market – PP# 02-126400; PP# 02-126500; PP# 02-126600

Mr. Lamanna made a motion to deny the application.

Based on the following findings of fact:

1. Seasonal outdoor sales of merchandise is not permitted in the CR District.
2. This property is available for multiple uses, commercial uses and there has been no demonstration that permitted uses could not be viably conducted on the property.
3. The specific provision carried over by reference to permitted operations in a CB District, Section 143.04, does not allow sales from trailers, outside stands, tents and the like which is the primary basis for the request in this case.

Mr. Lewis seconded the motion.

Mr. Fisher interrupted the motion and a discussion followed.

Mr. Fisher said the board, before they voted, mentioned a Geauga County Prosecutor's opinion and then went into executive session and asked if that can be made part of the record.

Mr. Lamanna said no, the board is going to treat that opinion as attorney-client privileged.

Mr. Fisher said as attorney-client and asked what the reason was for going into executive session, to review the legal opinion.

Mr. Lamanna said the board wanted to discuss the legal opinion and how it will impact the case and to discuss it among the board members.

Mr. Fisher said he doesn't think that is a lawful reason to go into executive session, there is no pending lawsuit, there is no threatened lawsuit.

Mr. Lamanna said with attorney-client privileged the board couldn't discuss it and also the board has a right actually to conduct its deliberations in executive session.

Mr. Fisher asked you do.



Mr. Lamanna said yes the board can go into executive session and come out and announce its decision but generally the board doesn't do that and when we do go into executive session we come out and basically for the most part will summarize what the conclusions were in that executive session.

Mr. Fisher said according to 117.04 "Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman and at such other times as the Board determines. All Board meetings to transact official business shall be open to the public."

Mr. Horn said the board didn't transact any official business.

Mr. Fisher said under 121.22 you can only go into executive session for certain reasons and one of them is not to discuss an opinion from the county prosecutor. He said unless there is pending or imminent litigation or an employment matter or sale of real estate, lease of real estate which none of these matters are.

Mr. Lamanna said there is an opinion from the Attorney General that we can go into executive session for deliberation.

Mr. Fisher asked where that is and if the board has it.

Mr. Lamanna said he doesn't have it here no.

Mr. Fisher asked which Attorney General and said an OAG opinion is an advisory opinion and not law but the open meeting law is clear and there is no basis to go into executive session on this.

Mr. Lamanna said he is not going to argue that here.

Mr. Fisher said he just doesn't think what the board did was lawful. He said first of all there was no roll-call vote, there was no basis to go in there other than saying you were going to deliberate which he thinks is unlawful especially under your own code, under 117.04 it has to be an open meeting.

Mr. Lamanna said he is not going to argue anymore, the board got an opinion from the county prosecutor that the board can do it.

Mr. Fisher asked which county prosecutor.

Mr. Lamanna said the Geauga County Prosecutor.

Mr. Fisher asked the present Geauga County Prosecutor.

Mr. Lamanna said he has been the prosecutor for the last 25 years.

Mr. Fisher said he thinks what the board did was unlawful. He said there is no basis other than to say we met, we discussed some secret opinion that you won't even disclose what it is and that is why we decided this isn't proper.

Mr. Horn said he just gave the reasons as to why.

Mr. Fisher said you won't disclose what the opinion even was.

Mr. Lewis said we just did, its in his motion.

Mr. Horn said he gave the reasons in his motion as to why it was denied, it was seconded and we have to take a vote on it.

Mr. Lamanna resumed the motion.

Vote: Mr. Horn, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2011-9 by Robert F. Redmond for Suzanne Y. Woodward for property at 16832 and 16850 Chillicothe Road

The applicant is requesting area variance(s) for the purpose of installing a real estate for-sale sign. The property is located in a R-3A District.

Mr. Robert Redmond, Realtor; Ms. Suzanne Woodward, Property Owner and Mr. Blair Woodard were present to represent this application.

Mr. Lamanna read the zoning inspector's letter dated March 17, 2011.

Mr. Robert Redmond introduced himself and Ms. Woodward and her son Mr. Blair Woodward. He testified that he wanted to give the board a little bit of background on how they ended up here. He said he was working on behalf of the buyer, he thinks the board knows, a year or so ago, when they wanted to build a small office building and he surveyed the township because he had certain requirements and after a long search he finally decided that he would contract to buy Ms. Woodward's property which at that time was in her father's estate and because of his needs it seemed like an appropriate thing but at the end of the day counsel had met with the buyer and had done some searches of the township and found out there was a deed restriction for a commercial use of that particular property, there are two properties just south of Dunkin Donuts so they were committed to cancel the contract and that caused Ms. Woodward a little bit of heartburn because she thought she was going to have some money this year that she could fund the rest of her life with. He said they decided they would put it up for sale formally so she signed a listing agreement with him to market it and sell it.

Mr. Redmond continued by saying he actually set a meeting up with the homeowner's association, the officers of Dalebrook and Mr. Joe Oberle was nice enough to have him come to his house on a Saturday morning for pastries and coffee and he explained to them what her (Ms. Woodward's) hardship was and he didn't want to try to market the property for what it can't be used without some kind of positive attitude from them and he just wanted to kind of take their temperature to see if they would have a neighborhood meeting and let him know how they felt about it and if any deed restrictions would be released but they sent him a letter six weeks later saying they had decided that they didn't want to proceed to give him any comfort in that regard. He said Ms. Woodward and he sat down in December and she wanted the two parcels shown on the sign and he thought he could have the graphic done because he has done a lot of sign work with Mr. Tim Doran of Doran Signs of Auburn and he designed it and they got it approved by Ms. Woodward and then he agreed to fund the \$550 to get it put up, it went up and he thought it was pleasant looking and he thinks there is a copy of the sign in the packet there. He said it is not an obtrusive sign, it doesn't harm anybody and it won't do any harm for the neighborhood. He said he had one call on it, it was for a retail person and he needed to discourage him because he can't promote the fact that it could be used as commercial, it is really residential property and if he wanted to tear the buildings down and build a nice house, that is what it is zoned for and he said thanks but no thanks. He said then Mr. Shane Wrench called him and told him that he had complaints from the neighbors from Dalebrook and it was not in compliance with the statutes so he asked Mr. Wrench what his recourse is and he said the BZA and so he spoke with Ms. Woodward and she told him to make the application and she would reimburse him the \$200.00 because she felt it was important so here we are. He said Mr. Wrench did call him after he submitted the application and asked him if he had planned on taking the sign down and he asked Mr. Wrench if he had to and Mr. Wrench said yes because he will have to give a citation if it is left up so he called Mr. Doran to take it down and we have to go through a process here and get some comfort from the BZA so it was taken down that day and Mr. Wrench was pleased. He said he has a lot of points that he would like to make, in a summary, in a different format than what the applicant requested was designed but at this point he would just like the board to listen to the homeowner.

Ms. Woodward testified that this is the legacy that her parents left her. She said before her father passed they did sell their business property and took a loss on that. She said Harold and Gladys Nash had been on a decline, she got sick in 2006 and her parents ended up closing the business in October. She said she is now suffering with inoperable lung cancer so she has a lot on her plate and it would be wonderful if she could get the taxes paid, this property sold and the way it is laid out you need a big sign like that so somebody is going to see that there are two parcels that can be sold. She said she also understands that it is very detrimental as far as the people coming in around Dunkin Donuts and then driving down Dalebrook to turn around. She said she doesn't know what you gentlemen or what the zoning or she does not know what the community has in mind, she has property for sale and this is a great stress that she was going to get off her dish and pay the taxes which benefits the township and move forward.

Ms. Woodward continued by saying the house has never been lived in for the last 30 years, she knows her Dad put the barn up but in 1971 he had purchased that house and Mr. Phil McClean was the first person then her grandmother moved here in 1973 and she was alive for all of nine months and she lived in that house then, after that one of their bartenders moved into it for six months and after that Mr. Nash used it as a storage facility and that is exactly what is in it.

Mr. Redmond asked how many years.

Ms. Woodward said thirty years and the house has been storage for thirty years and the barn since the day it went up was storage for the vehicles, equipment to plow the parking lot etc.

Mr. Redmond said Ms. Woodward has said the pipes had burst and the house is virtually uninhabitable.

Ms. Woodward said yes, she has electricity going to the sump pump and added that when her father moved out of the restaurant because he was living above the business and when the business sold, her father took all of his belongings and shoved them in that house and in the interim spent his life at her house. She said he band-aided it and he wanted to go there and live but she told him he had to get some of his stuff out of there so he was at her house most of the time and he wanted to maintain the property.

Mr. Lamanna said he thinks the board understands that and the only thing the board is dealing with is the sign size.

Mr. Redmond said he will address that.

Ms. Jayne Nelson of 16870 Chillicothe Road testified that unless you turn and look at the sign you do not notice it.

Mr. Lamanna said so the sign is not bothering you.

Ms. Nelson said no, not at all.

Mr. Redmond said and they would be the most affected. He said he would like to summarize the points he would like to make. He said the goal is to sell the property, the need is to market it properly and sell it properly, they want it to be sold and it is two parcels of land and it is going to have to be a scrape and re-build so it could be that maybe some people from the back or maybe the gentleman who has a beautiful home just behind these properties, maybe he wants to buy them, he would love to sell them to him because then he would have access all the way through to Rt. 306.

Mr. Horn asked Mr. Redmond to talk about the size of the sign.

Mr. Redmond said they are talking about the size of the sign appropriate for what they have to sell. He said a 2' x 2' won't do it and he has precedence to show the board that Bainbridge Township, and this is no reflection on the board, has been rather lackadaisical about enforcing the statutes anyway. He said the sign that is at Snyder Road and Bainbridge Road, the sign that Howard Hanna has is 3' x 6', there has been a larger sign there for a long time and she has been moving signs around, she has her own Howard Hanna sign there in addition to that one and he plays tennis at the racquet club and has been for 25 years and there has been some kind of big sign on that property at that corner for at least 10 or 15 years and nobody has ever done anything about it. He said and then he submits to the board Pete Carey's sign right up the street from Jehovah's Witnesses on E. Washington that has been there for at least six or seven years, it is a 4 x 8. He said he called Pete Carey on it six years ago so his point is that there is a precedent, you don't enforce that particular sign law and he thinks there are reasons and it is basically a hardship to permit Ms. Woodward to have her property sold properly through the right sign. He said he used to own a residential real estate company with 90 sales people and he knows the business, the MLS does not work to sell this unique type of property, it is so unique because in the MLS you have to put it in as a residential house with a picture of the house and the barn and nobody is going to come and see it and they are not going to buy it. He said newspaper ads are expensive and the only other alternative to market real estate properly and he has been in this for 25 years is an appropriate sign. He said the property has a hardship, it is an under-utilized real estate asset, vacant for several years, the proposed sign they are appealing is harming no one and it is pleasant. He said there are other non-conforming signs that have been existing for years as he said and the taxes are overdue and he thinks the school system would like to have some of that money so he asks the board please to consider giving them the opportunity to put that sign back up.

Mr. Horn asked what the hardship on the sign is again.

Mr. Redmond said the property can't be sold properly without the appropriate sign and design of the sign.

Mr. Horn asked Mr. Redmond if he tried to do it that way and how does he know it can't be sold without a regular sign if he hasn't tried.

Mr. Redmond said he has 25 years of experience.

Mr. Horn asked if they could put a smaller sign up on either property and asked would that be effective.

Mr. Redmond said no it would not be effective. He said he consulted with Rocky River, he has helped Mayfield Heights in reviewing some of their sign ordinances and have been happy to do that, he was president of the Cleveland Board of Realtors in 1995 and to provide the activities of 5,000 people, mostly in residential real estate. He said he knows the business and they sued the City of Euclid in 1993 because they refused to provide an appropriate sign and it cost the Cleveland Board of Realtors \$200,000 and took two years and following that 16 to 18 municipalities based their sign statues to be more reasonable to help the real estate signs.

Mr. Horn said your argument as to a hardship with a variance for a sign, could that not be applicable to anybody who is selling their property, you can sell it if there is a bigger sign.

Mr. Redmond said true but it is a unique property.

Mr. Horn asked why it is unique.

Mr. Redmond said because it has been uninhabited for thirty years, it is deteriorating; it needs to be torn down and have something new put there, a new residence.

Mr. Lewis said your business card says you are in commercial real estate.

Mr. Redmond said that is his company, yes.

Mr. Lewis asked how this property is currently zoned.

Ms. Woodward said it is residential.

Mr. Lewis asked Ms. Woodward why she is using a commercial real estate agent to sell a residential property.

Ms. Woodward said because he first came to her and they had a deal and the deal fell through because there are deed restrictions and that is why he (Mr. Redmond) went to Dalebrook and she gets along with Mr. Redmond, she trusts him.

Mr. Lewis said he is just trying to understand because it is a residential property.

Ms. Woodward said right.

Mr. Lewis said this property has been before the township before for a modification in zoning classification which did not happen so it is still a residential property.

Ms. Woodward said yes.

Mr. Lewis said you have a commercial realtor trying to sell your residential property so to sell your residential property it appears that you might have to make some adjustments. He said he is not real excited about marquee signs going up and he is very sympathetic to Ms. Woodward's health and her personal situation but if a commercial realtor trying to sell property, it is residential, we have a provision for signage and because you (Ms. Woodward) have two lots you can put a sign on each one of those lots that easily conforms because there is no restriction on colors so you can make it vibrant and you can angle them at 45° angles so people can see them coming up and down the hill as well. He said he is not real excited about setting permission standards that allow people to put billboard size for-sale signs up on residential property.

Mr. Redmond said you have already done that.

Mr. Lewis said what is already there is a matter for our zoning inspector to handle, that is not something that this board has acted on and granted permission on so we are dealing with your application, there are 43 homes in his development and he is sure they would be real excited if he put a 4 x 8 sign up for whatever his personal hardships may be. He said he does not think it would go over real well and he is not real excited about offering and cutting standards that could just sprawl all the way across Bainbridge. He asked Mr. Redmond if he has done any multiple listings on this.

Mr. Redmond said he doesn't belong to the multiple listing services anymore.

Mr. Lewis said so the answer is no. He asked if he has done any print advertising.

Mr. Redmond said no he doesn't have a budget for that.

Mr. Lewis said he understands.

Mr. Redmond said and neither does Ms. Woodward.

Mr. Lewis told Ms. Woodward that he realizes she selected this gentleman to market her property but there are residential real estate companies that have the tools that will not put anybody under any unnecessary economic burden to market the property and he feels a sign puts the community under a substantial burden and he doesn't like the standards.

Mr. Redmond said for each question he would like to have a response.

Mr. Lewis said they are mostly statements, they really aren't questions. He said his questions were directed to the applicant and she answered them.

Mr. Redmond said he just finished writing a contract on a residential house in Solon last night and delivered it this morning, he is not restricted from doing residential and as he mentioned in the preamble, he managed a residential real estate company for 90 sales people for several years and was very effective in the MLS and as a matter of fact during that time he was chairman of the MLS computer committee at the Board of Realtors so he is very well versed in the effectiveness of the MLS. He said in this particular case as he made his point earlier, there are three methods of marketing these properties, the MLS, newspaper ads and a sign. He said the MLS is ineffective to market this kind of property because it is so unique. He said newspaper ads are expensive and the appropriate size sign and design of the sign can be the only effective way of selling this and this is his expertise.

Mr. Blair Woodward testified that it is on State Route 306, a very highly traffic area and not really any residents across the street except for a very large green neon building and he shouldn't see a problem with a sign facing traffic that is moving 45 – 50 mph with no homes across from it and the bushes that are there do hide the sign from any residential view behind which Dalebrook may be able to see.

Mr. Redmond said the next door neighbors had no objection.

Mr. Lewis said to Mr. Redmond, before he put the sign up because he has been in real estate, commercial, for a lot of years and you have worked with countless communities, did you representing your client come to the Bainbridge Zoning Inspector first and familiarize yourself with the township sign restrictions.

Mr. Redmond said no, in all of his work, he depends on the sign people to be familiar with the ordinances so Mr. Tim Doran who has over 12 years has put up over 40 signs for him.

Mr. Lewis asked if Mr. Doran came in on behalf of this client.

Mr. Wrench replied no.

Mr. Lamanna said one of the questions is, is this somehow different than many other properties and the fact that it is located next to the commercial district and the fact that the sign is on a major highway where people are moving by at a rapid speed so it is hard for them to notice it and it really doesn't adversely affect other residential properties but the board would have rather seen this come in beforehand and the board could have said maybe 4 x 8 is a little big, maybe 4 x 6 or 3 x 6 would be more appropriate and now he understands it would be a hardship for the applicant to make a new sign because it is a significant expense. He said the board's concern is if they grant this variance, how do we distinguish this property from the next 27 people who might come to the board.

Ms. Woodward said this isn't down in Lake Lucerne.



Mr. Lamanna said it is not the same as if it were on a residential street where there would be no need for a big sign because the traffic would go along at 25 mph.

Mr. Woodward said it is a very large frontage and it is a very deep set property also so in order to give everybody the idea of what is actually being sold there you have to put a larger sign there to let them know that you actually have property that is portrayed in the picture showing the two lots. He said it did take him a week to see the sign and he works there everyday trying to maintain the property and makes sure it looks good for the community like his grandfather always did. He said Nash's did have a very large sign that was 30' tall there for years advertising the restaurant.

Mr. Horn said he didn't think they have the need for a big sign.

Mr. Murphy said he understands the uniqueness of the residential properties that are next door to commercial properties in the township, he just doesn't know how the board can delineate or specify something that would allow this here and referred to the Nelsons when they go to sell their house next year etc.

Mr. Lamanna said that is the basis that it is done, because this property is located next to commercial and because of the unique nature of the property, there are two parcels, the structures on it are probably not of any significant value, it is on a major thoroughfare, it is not someplace that people come along looking for something at 20 mph, they are going to go flying by at the speed limit.

Mr. Murphy said some reference could be made that it is in contact with commercial or contiguous with commercial.

Mr. Woodward said trees do border the property so it is distinguished between the other properties.

Mr. Lamanna said it is not visible from adjacent residential properties and he thinks that is going to close off most others.

Mr. Murphy said to Mr. Redmond that if in fact it doesn't sell with him and the applicant wants to double the size next year, do you set limits here or would it be in front of the trustees.

Mr. Lamanna said it is unique to this property and he thinks he would put the caveat in that if this had come before the board before the fact the board may have made it smaller.

Mr. Horn asked if this sign is 12' back from the right-of-way.

Mr. Redmond replied yes.

Mr. Woodward said is located right next to commercial all around.

Mr. Lewis said he doesn't see it anymore difficult to sell than a lot or a property that is tucked deep into a subdivision that there is no drive-by property and he believes that it is the marketing agent or the realtor's responsibility to promote it and drive the property sale.

Mr. Horn said there are other ways to promote the sale of a property other than a sign.

Mr. Lewis said unique property that is not on a heavily traveled main thoroughfare actually suffers hardship to be marketed because it is not visible to high volumes of day to day traffic.

Mr. Redmond said that is why there is the MLS, the local listing service serves to market properties that can't be sold through the sign. He said the most effective way of selling property historically, 35%, is because of the sign and absent a unique property description on the MLS is ineffective.

Mr. Lewis said in this case you are selling land, the condition of the structures on it is not what you are touting your sale on.

Mr. Redmond said the MLS would require that there be a picture of the building and somebody might say they would not want to tackle it so it is a negative to promote that kind of property in the MLS.

Mr. Lewis said this sign is 32 sq. ft.

Mr. Redmond said yes.

Mr. Lewis asked if that is an 800% variance.

Since there was no further testimony, this application was concluded.

Motion BZA 2011-9 – 16832 and 16850 Chillicothe Road

Mr. Lamanna made a motion to grant the applicant a variance for the purpose of putting up a 4' x 8' for sale sign for a piece of property located at 16832 and 16850 Chillicothe Road. The variance is only for the current sale of the property.

Based on the following findings of fact:

1. This is unique property that consists of two existing residential properties with residences on them that are no longer in a condition that they are viable as residences.
2. The property is located immediately adjacent and across from a commercial business district.
3. The property is located on State Route 306 so the traffic is moving by at a high speed and a larger sign would be necessary for anyone to be able to read the sign without creating a hazard.
4. The sign is also located in such a spot as it is not viewable by anyone in a residential district and therefore would not have any adverse effect on the adjacent property owner.
5. The board notes that if this sign had not already been constructed at a significant cost and came before the board while some relief would be justified, the board would probably not grant a 4' x 8' sign at this location.

Mr. Horn seconded the motion.

No vote was taken.

Mr. Horn inquired of the applicant, the board now only has four people sitting here tonight and all four have expressed their views and one member is not here and the applicant needs three votes for an approval. He asked the applicants if they would rather come back next month when the fifth member is present to see what the odds will be with him or if they want to go with the four members tonight.

Mr. Redmond said they have been suffering though this for enough time, he thinks that it would be an appropriate decision to wait until next month.

Mr. Lamanna made a motion to continue this application to the next regularly scheduled meeting to be held April 21, 2011.

Mr. Lewis seconded the motion.

Vote: Mr. Horn, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Since there was no further testimony, the public hearing was closed at 10:15 P.M.

Respectfully submitted,

Christopher Horn  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Murphy

Attested to by: Linda L. Zimmerman, Secretary  
Board of Zoning Appeals

Date: April 21, 2011

AUDIO RECORDING ON FILE

BZA PH 3/17/2011

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Bainbridge Township, Ohio  
Board of Zoning Appeals  
March 17, 2011

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:15 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis and Mr. Mark Murphy. Mr. Mark Olivier was absent.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the February 17, 2011 meeting as written.

Mr. Horn seconded the motion.

Vote: Mr. Horn, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Applications for April 21, 2011

Application 2011-9 by Robert F. Redmond for Suzanne Y. Woodward for property at 16832 and 16850 Chillicothe Road - Continuance

The applicant is requesting area variance(s) for the purpose of installing a real estate for-sale sign. The property is located in a R-3A District.

Application 2011-10 by Bryan M. and Joan M. Hertz for property at 7205 Chagrin Road

The applicant is requesting a modification to a conditional use permit for the purpose of expanding a daycare. The property is located in a L.I.R. District.

Application 2011-11 by Riser Foods Company for GetGo Partners South for property at 17675 Chillicothe Road

The applicant is requesting a conditional use permit with area variances for the purpose of redeveloping the existing GetGo fuel station property. The property is located in a CB District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for April 21, 2011 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:21 P.M.

Respectfully submitted,

Christopher Horn  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Murphy

Attested to by: Linda L. Zimmerman, Secretary  
Board of Zoning Appeals

Date: April 21, 2011